

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 4961 of 2005

Between:

- 1 Nunnam Apparao, S/o Appala Swamy,
R/o Ramannapalem, U.Kothapalli Mandal,
East Godavari District.
- 2 Nunnam Srinivasa Rao, S/o Venkata Swamy,
R/o U.Kothapalli Village and Mandal, East Godavari District.

..... PETITIONERS

AND

- 1 Commercial Tax Officer, D.No.2-17-24,
Rani Subhadrammapet, Tuni, East Godavari District.
- 2 Deputy Commercial Tax Officer, Pithapuram, East Godavari District.
- 3 Appellate Deputy Commissioner of Commercial Taxes, Visakhapatnam,
Visakhapatnam District.
- 4 Sri Dhana Lakshmi Traders, rep., by its Managing Partner Sri E.Rambabu, S/o
late Pattabhiramanna,
R/o 8-65, Uppadu, U.Kothapalli Mandal, E.G. District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction declaring the action of the respondents 1 to 3 in seeking to auction Sri Lakshmi Ganapathy Rice Mill, Uppada, U.Kothapalli Mandal, East Godavari District without following the due process of law for recovery of arrears of tax alleged to be due from the 4th

respondents as illegal, arbitrary, contrary to the directions of this Hon'ble Court in WPMP No.280/2005 in WP No.203/1999 dated 19-1-2005 etc., and grant such other relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.V.V.L.N.SARMA

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court at the admission stage made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed seeking direction declaring the action of the respondent Nos.1 to 3 in seeking to auction Sri Lakshmi Ganapathy Rice Mill, Uppada, East Godavari District without following the due process of law.

2. It is the case of the petitioners that in respect of the sale tax dues, the 4th respondent has already filed an appeal before the 3rd respondent on 13.12.2004. The 2nd respondent issued notice under Section 7 of the Revenue Recovery Act for auctioning the entire rice mill and the properties of the 4th respondent. Questioning

the said notice, the 4th respondent filed W.P.No.203 of 2005 and the matter is pending before this Court. But however, the authorities are trying to auction the rice mill without following the procedure as laid down under the law, and therefore, the petitioners seek appropriate directions.

3. We do not find any material before us with regard to the authorities trying to sell the property, except the averments made in the Writ Petition. In the absence of any substantial material to establish that the mill is being to be sold, we do not find any ground to entertain the Writ Petition.

4. Accordingly, the Writ Petition is dismissed. No costs.

5. However, it is always open for the petitioners to approach this Court as and when the auction is being taken by the authorities by issuing proper notice.

G. BIKSHAPATHY, J

P.S. NARAYANA, J

Date: 05.04.2005

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To

- 1 The Commercial Tax Officer, D.No.2-17-24,
Rani Subhadrammapet, Tuni, East Godavari District.
 - 2 Deputy Commercial Tax Officer, Pithapuram, East Godavari District.
 - 3 The Appellate Deputy Commissioner of Commercial Taxes, Visakhapatnam,
Visakhapatnam District.
 - 4 The Managing Partner, Sri E.Rambabu, S/o late Pattabhiramanna, Sri Dhana
Lakshmi Traders,
R/o 8-65, Uppadu, U.Kothapalli Mandal, E.G. District.
- 5 2 CCs to the GP for Commercial Tax, High Court of A.P., Hyderabad (OUT)
- 6 2 CD copies